

**Virginia Land Conservation Foundation Board of Trustees
December 4, 2009
The Patrick Henry Building
Richmond, Virginia**

Virginia Land Conservation Foundation Board of Trustees Members Present

The Honorable L. Preston Bryant, Jr. Chair
The Honorable Patricia S. Ticer, Vice Chair
The Honorable Robert S. Bloxom
Nancy T. Bowles
Margaret Davis
Mary Bruce Glaize
Anna Lawson
L. Clifford Schroeder, Sr.
Joseph H. Maroon, Executive Secretary

Joseph Barlow, Sr.
Robert L. Davenport, Jr.
William C. Dickinson
Thomas B. Graham
Mary Helen Morgan
Brooks Smith

Virginia Land Conservation Foundation Board of Trustees Members Not Present

The Honorable R. Creigh Deeds
Wendell P. Ennis
Albert C. Weed, II

Alexandra Liddy Bourne
Bonnie Moorman

State Support Staff Present

Nicole M. Rovner, Deputy Secretary of Natural Resources
Sarah Richardson, DCR
Michael R. Fletcher, DCR
Timothy J. Bishton, DCR
Jeremy Stone, DCR
Thomas L. Smith, DCR
Larry Smith, DCR
Diane Dunaway, DCR
Carl Garrison, Department of Forestry
Rob Farrell, Department of Forestry
Todd Haymore, VDACS
Kevin Schmidt, VDACS
Larry Hart, DGIF
Deb Van Duzee, DGIF
Bob Lee, Virginia Outdoors Foundation
Elizabeth Andrews, OAG

Others Present

Clyde Christman, Senate Finance Committee staff
Phil Hocker, Virginia Conservation Credit Pool, LLC

Melissa Laughner, McDonnell Transition Team *[I thought her name was Maureen?]*
Alexander Macauley, Macauley & Burtch, P.C.
David Phemister, The Nature Conservancy
Heather Richards, Virginia's United Land Trusts

Call to Order

Secretary Bryant called the meeting to order. A quorum was declared present.

Secretary Bryant welcomed the new members to the Board. He said that the meeting was bittersweet as it would be the last meeting under the Kaine Administration. He noted that he and Secretary Bloxom would not likely be with the Board at the next meeting.

Secretary Bryant said that over the last four years the Natural Resources Secretariat had numerous successes. He said that the next administration would be inheriting six well-run agencies. He noted that Governor Kaine had focused on water quality and that the VLCF played a significant role.

The Secretary noted that a billion dollars of state funds had gone to water treatment plants as well as non point sources. He noted that did not count the contribution of local governments. He said that despite the budget challenges there had been record funding of water quality investments.

Secretary Bryant noted that he and Governor Kaine had worked with the legislature early on to produce the Virginia Waters and Chesapeake Bay Clean Up Plan which is updated every six months.

Secretary Bryant noted that President Obama had issued an Executive Order pertaining to the Chesapeake Bay. He said this was perhaps the single most significant federal action with regard to the Bay in the last twenty-five years.

The Secretary noted that because of the work of VMRC and partners in Maryland the Bay was seeing a rebound of the blue crab population.

Secretary Bryant said that in terms of energy, Governor Kaine did something no other Governor had done. He reached out and developed a partnership between Commerce and Trade and Natural Resources. He made sure that both secretariats were focusing on the conservation and efficiency side as well as the commercial and investment side. Together these secretariats produced the Virginia Energy Plan.

Secretary Bryant said that despite the tough economic times and increasingly lower budgets the state was very close to meeting the Governor's 400,000 acre land conservation goal. At the time of the meeting there were about 35,000 acres to go. He noted that easements were being reported daily. He noted that both candidates for Governor had indicated that they would have a similar land conservation goal.

Secretary Bryant turned to Secretary Bloxom for comments.

Secretary Bloxom said that the two agencies in his secretariat cover 92% of the land mass in Virginia. He said that 62% of the land is forested and an additional 30% is agriculture. He said that he would encourage the VLCF as they move forward to look at land conservation as a necessity. He noted that it had been a difficult time for the agencies with staff reductions.

Approval of Minutes from March 27, 2009

MOTION: Mrs. Glaize moved that the minutes of the March 27, 2009 meeting of the Virginia Land Conservation Foundation be approved as submitted.

SECOND: Ms. Bowles

DISCUSSION: None

VOTE: Motion carried unanimously

Executive Secretary Report

Mr. Maroon gave the Executive Secretary's report. He again welcomed the new members and noted that an orientation meeting had been held that morning.

Mr. Maroon reviewed the agenda for the meeting.

Mr. Maroon said that he would like to take one more opportunity to talk about the Governor's 400,000-acre land conservation goal. He said that without the leadership of Secretary Bryant, Secretary Bloxom, and Deputy Secretary Rovner the goal would not have been accomplished. He lead the Board in a round of applause.

Financial Report

Mr. Bishton, Finance Director at DCR, gave the financial report. A copy of the report is available from DCR.

As of November 30, 2009 total liabilities and equity for the Virginia Land Conservation Foundation were \$4,848,799.

Ongoing Grant Projects – VLCF Closings Since March 2009

Ms. Richardson gave an update regarding project closings.

March: The Nature Conservancy – Lower Blackwater, purchase of a 416-acre conservation easement on the Blackwater River, Southampton County. The site is part of a high-priority forested core, intersects two B2 sites, contains a bald eagle nest, and is part of a stream-head pocosin, otherwise unprotected in Virginia. VLCF grant: \$208,000 from the 2008 grant round.

March: Piedmont Environmental Council – Rappahannock Station Park: acquisition of a Civil War Battlefield, part of a new 26-acre riverfront park that provides the only public access to the Rappahannock River in Fauquier County. Planned park activities include historic exploration, boating, fishing, and wildlife viewing. VLCF award: \$200,000 from the 2006 grant round.

June: The Nature Conservancy – Gollahan-Surgenor Caves: purchase of two 286-acre parcels on the Powell River, Lee County. With a globally significant cave system and two miles of river frontage, the site supports 33 rare species and a significant natural community. VLCF award: \$269,798 from the 2008 grant round.

June: Campbell County Recreation Department – Altavista/English Area Park Project: In the 2006 grant round, Campbell County received assistance in purchasing 146 acres for development in to a public park. Acquisition preserved a total of 167 acres along the scenic Staunton River (combined with an existing local park) and will provide picnic shelters, boat ramps and walking trails. VLCF grant: \$75,000 from the 2006 grant round.

June: Northampton County – Richardson Farm PDR: purchase of a conservation easement on 268 acres in Northampton County, the first easement purchase made by the Northampton County Purchase of Development Rights (PDR) program. The property, which the Richardson family has been farming since 1945, contains 104 acres of prime farmland soils, as well as 82 acres of forested migratory bird habitat and another 82 acres of marsh and wetland habitat. The entire property is in a Natural Heritage Resource Conservation Site, and provides a forested buffer to more than 10,000 linear feet along Mill Creek and a marsh on the Magothy Bay. VLCF award: \$250,000 from the 2009 grant round.

July: New River Land Trust – Sweet Spring Hollow: purchase of an easement on 232 acres in Montgomery County. The site supports globally rare dolomite woodland and wetland communities and 13 mapped locations of rare plant and animal species. VLCF award: \$109,586 from the 2008 grant round.

July: The Archaeological Conservancy: Pamplin Pipe Factory: Funding for purchase of the 2.96 acre Pamplin Pipe Factory property, which is listed in the Virginia Landmarks Register and National Register of Historic Places for the archaeological remains of two centuries of clay pipe manufacturing. The property will be open as a museum and the

three existing structures will be interpreted for their importance in the industrial and cultural history of Virginia. VLCF award: \$61,000 from the 2009 grant round.

July: The Virginia Wildlife Foundation – Short Hills: Acquisition of 3,682 acres located in Rockbridge and Botetourt Counties for development of a Wildlife Management Area. Located within the property is Cedar Creek, a state impaired water, and Broad Creek, a tributary of the Maury River. The property will be open to the public for recreation. VLCF award: \$239,500 from the 2009 grant round, matched by more than \$10 million.

July: Northern Virginia Land Trust – Crow’s Nest Phase II: purchase of 1,100 acres of an unfragmented and regionally and globally significant coastal plain hardwood forest and extensive tidal and nontidal wetlands in Stafford County. Funds from 2006 and 2008 grant rounds totaled \$1.3 million, matched by almost \$13 million from other sources.

August: Shenandoah Valley Battlefields Foundation – Huntsberry Farm Project: purchase of 209 acres in Frederick County that is the last large unprotected farm in Winchester’s Civil War Battlefields and was at the center of the Battle of Third Winchester fought in September 1864. The property, located within the Shenandoah Valley Battlefields National Historic District established by Congress, is surrounded by land already protected by the Battlefields Foundation and other partners. VLCF grant: \$1 million from 2006 grant round.

August: Piedmont Environmental Council – Montpelier: purchase of an easement of 700 acres of forested and open-space land surrounding the historic core of James Madison’s Montpelier estate in Orange County. Historic resources include the home of an African-American slave owned by the Madison family and emancipated after the Civil War, as well as important archaeological and historical resources associated with Civil War operations. The National Trust and the Montpelier Foundation plan to develop an interpretive trail and active recreation opportunities for the visiting public. VLCF award: \$700,000 from the 2006 grant round.

September: New River Land Trust – Ingles Ferry Farm: purchase of a 314-acre easement on the Ingles Ferry Farm near Radford in Pulaski County, to protect the farm house, ferry site, active farmlands, and viewsheds along the New River. The owners plan to open the site to the public once a year, and make the property available for educational visits and research. VLCF award: \$283,818 from the 2006 grant round.

October: Town of Abingdon – Historic Dunn’s Meadow “Retirement” Residence & Property: acquisition of 9 acres of this historic property in the town of Abingdon. Historic resources on the property include an archaeological site of a Revolutionary War encampment, as well as the “Retirement,” a brick residence of the same period. The property is also associated with the Overmountain Victory Trail Head and National Historic Trail. The Town of Abingdon plans to provide maximum public access to the property for educational, recreational, and interpretive uses. VLCF award: \$200,000 from the 2006 grant round, matched by \$800,000 from the town.

November: Clarke County Easement Authority – Cool Spring Farm: purchase of an easement on the farm, which is within the Shenandoah Valley National Historic District and Cool Spring Civil War Battlefield Historic District. The property, owned by the Community of Cistercians, includes a historic farm house and 204 acres of farmland, 111 acres of which is designated as prime soil. The monks have worked with the Natural Resource Conservation Service to implement BMPs and develop a nutrient management plan. VCLF award: \$123,625 from the 2009 grant round.

November: Mathews County Land Conservancy – B. Williams Store: funding for acquisition of the 1-acre B. Williams and Co. Store property. The property, which is eligible for individual listing in the Virginia Landmarks Register, is adjacent to the 4-acre Williams Wharf in Mathews. Upon acquisition, the Mathews County Land Conservancy will combine the two properties for use as a museum. The B. Williams Store property has been placed under easement with the Department of Historic Resources. VCLF award \$345,000 from the 2009 grant round.

Highlights of the VCLCF Program

Ms. Richardson gave the following review:

Virginia Land Conservation Foundation

- Created in 1999
 - First received funding in 2000
- Enabling statute establishes a special nonreverting fund to help protect
 - Ecological, cultural or historic resources,
 - Lands for recreational purposes, and
 - Lands for threatened or endangered species, fish and wildlife habitat, natural areas,
 - Agricultural and forestall lands and open space
- The Foundation is overseen by a 19-member board
- The Secretary of Natural Resources serves as Chairman, the Director of DCR is Executive Secretary
- Members are appointed by the Governor, the Senate and the House of Delegates
 - Appointments are from each of Virginia's 11 Congressional Districts, ensuring representation from all corners of the Commonwealth
- The Secretary of Agriculture and Forestry is also a member
- VCLCF leverages state funds through matching grants in four categories:
 - Working farms and forests;
 - Historic lands;
 - Open space and parks; and
 - Natural areas

- Funds from VLFC are used both to purchase lands and to acquire permanent conservation easements.
- Local governments and non profit groups are eligible to receive 50% matching grants from VLFC.
- State agencies can obtain grants without providing match, although they often do.
- Six grant rounds to date
 - 100 projects awarded grants
- Interagency workgroup reviews grant applications and recommends projects to the Board for approval.
 - DCR, DGIF, DHR, DOF, VDACS, VOF
- Features of the VLFC program:
 - Cross-cutting grant-review criteria to maximize conservation values.
 - Inter-agency staff review team with expertise from multiple agencies.
 - Greater weight for projects with public access and utilization.
 - Final review by VLFC Board.
- More than \$40 million has been allocated to VLFC since 2000.
 - 25 percent of the allocation goes to the Virginia Outdoors Foundation.
- More than \$30 million has been awarded as grants
- VLFC funding has been leveraged to protect over 55,000 acres across the Commonwealth.
 - Includes both VLFC grants and funds transferred to VOF.

VLFC Land Preservation Tax Credit Review Criteria

- 2006 amendments to land preservation tax credit (LPC) statute
- Amendments gave VLFC a new role:
 - Development of criteria for DCR to use in reviewing conservation value of donations with tax credit applications of more than \$1 million
- Criteria were developed in 2007 and revised in 2008.

Overview and Update of DCR's Land Preservation Tax Credit Review

Mr. Stone gave the following presentation:

Land Preservation Tax Credits Conservation Value Review: 2008 Report

Key Points

- DCR reviewed \$41 million of the \$102 million LPTC claimed in 2008.
- So far in 2009 DCR has reviewed \$38 million of the \$106 claimed.

- In 2008, DCR reviewed 20 of the 224 known donations filed. This represents 8% of applications, but 40% of total credits claimed.
- So far in 2009 DCR has reviewed 25 applications and expects to review at least 9 more before the end of the year.
- The \$102 million cap on LPTC for 2008 was reached on December 29, 2008.
- As of December 3, 2009 TAX estimate there is ~\$3.5 million of the \$106 cap left.

DCR Review Process

- Potential applicants are strongly encouraged to request an optional pre-filing review.
- Offers opportunity to correct deficiencies before deed is recorded.
- Components of DCR review.
 - Conduct site visit
 - Research state and federal databases/maps to ensure deed protects previously documented resources.
 - Review deed to ensure Criteria restrictions are included.
 - Discuss any issues with applicant or representative.
 - Send pre-filing comment letter or final verification letter.

Applications Received

- There was an increase in the number of applicants requesting \$1 million or more in LPTC in 2008
 - In 2007, DCR received 18 requests for a Pre-Filing Review.
 - In 2008, DCR received 40 requests for a Pre-Filing Review.
 - So far in 2009 DCR has received 34 requests for a pre-filing review. If the credits for 2009 are soon gone this number may not increase.

Percentage of Tax Credits Reviewed by DCR

- DCR reviewed a larger % of the LPTC applications in 2008 than in 2007.
 - In 2008 DCR reviewed 40% of LPTC, based on credit claimed as opposed to 25% in 2007.
 - So far in 2009 we have reviewed 35% of LPTC base on credit claimed.

Number of Applications and Number of Acres

- While there was a sharp increase in the applications requesting \$1 million or more, there was a slight decrease in applications overall:
 - 224 tax credit applications were filed for the \$102 million available in 2008.
- However, the total number of acres protected by the credit remained the same:
 - Amount of acreage for which tax credits were applied is ~59,000 about the same as 2007.

Actual Donations

- In 2008, of the 40 reviews conducted, 20 applicants submitted their final applications in time to request a portion of the cap.
- These 20 donations:
 - Totaled 12,753 acres
 - Requested \$41,077,720
- In 2009, of the 34 applications reviewed so far, 14 have filed in time to request a portion of the credits available under the cap.
- These 14 donations:
 - Totaled 14,860 acres
 - Requested \$38,652,351

Wide Range of Conservation Purposes

- Every Conservation Purpose defined by the VLCF Criteria is represented multiple times in the donations made in 2008:
 1. Agricultural use
 2. Forestal use
 3. Natural Habitat and Biological Diversity
 4. Natural Resource Based Outdoor Recreation or Education
 5. Watershed Preservation
 6. Preservation of Scenic Open Space
 7. Conservation and Open Space Lands Designated by Local Governments

Examples of Conservation Purposes in 2008

Agricultural Use: More than 300-acres in active agricultural production in Northern Virginia which the locality has designated as agricultural land for use value assessment.

Forestal Use: 3,000-acres which is actively managed for timber production.

Natural-Resource Based Outdoor Recreation or Education. More than 1,000 acres of land visible from a scenic byway with deeded public access for passive recreation OR land adjacent to a public high school with deeded access for students, faculty, and the general public for the purpose of environmental education.

2008 DCR Review Results

- Background Reached \$102 M cap on December 29, 2008.
- DCR reviewed less than 10% of all applications (20 out of 224)
 - Represents \$41 M in state tax credits on 12,750 acres.
 - More than twice the number of high dollar donations over \$2.5 M as 2007; suggests that interest remains high.

- DCR conducted preliminary and final reviews and issued consistency letters to 38 of the 40 applications.
 - One applicant who failed to submit a pre-filing application has yet to resolve outstanding issues with both TAX and DCR.
- 24 of the 40 applicants are known to have recorded their deed or easement in 2008. (Several failed to submit their application before the \$102 cap was depleted).
- Changes to deeds include:
 - Requiring basic limitations on development where the deed omitted them.
 - Requiring a forest management plan.
 - Requiring water quality buffers.
 - Protecting resources previously listed as National or State Historic Landmarks from demolition and alteration.
 - Requiring protection of sensitive resources documented in state databases.
- Specific examples of the added value of DCR's Review
 - As originally submitted to DCR several applicants would have allowed almost unlimited development of the property with buildings and roads under the terms of the proposed easement.
 - The LPTC was used to protect a Civil War battlefield listed on the Civil War Sites Advisory Commission Report from ground disturbing activity in the absence of archaeological review.
 - One review resulted in the applicant withdrawing their request for tax credits when they were unable to identify a single conservation purpose and completely failed to limit subdivision or development of the property.
- As a result of DCR review these applicants had to bring their donations in line with VLCF Criteria.

Benefit of DCR Review

DCR's review ensures that safeguards exist in deed to:

- Protect conservation values of the land in perpetuity
- Prohibit intentional destruction or significant alteration of the conservation values of the protected property.
- Assure that conservation value of the property will not be adversely affected by future division or development of the property.
- Ensures consistency in the conservation value of the land transactions claiming over \$1 M in state tax credit.
- Provides a check and balance on the quality of the largest easements and land donations.
- Enhances the value of Virginia tax dollars by adding water quality and forest stewardship protections.
- Expectation is for \$1 M or more, landowner will conserve their land and provide water quality buffers or use BMPs to reduce stream erosion and runoff and properly manage forests.

Lessons Learned from the 400,000-Acre land Conservation Goal: A Panel Discussion

Nikki Rovner, Deputy Secretary of Natural Resources

Bob Lee, Virginia Outdoors Foundation

David Phemister, The Nature Conservancy

Heather Richards, Virginia's United Land Trust

Secretary Bryant introduced a panel for a discussion of the Governor's 400,000-acre land conservation goal. He said that public and private partnerships have accomplished an extraordinary goal along with the principle state agencies involved. He said this included about 30 land conservation organizations.

Secretary Bryant said that there was a broad consensus to get the maximum conservation value out of the lands. He said that, as far as he knew, there had not been another land conservation goal in the country that was as aggressive as the Virginia goal.

Bob Lee, Virginia Outdoors Foundation

Mr. Lee said that the VOF was created by a legislative act in 1966. He said that the VOF had done more with land conservation in the past four years than in the previous 39 years. He said that Virginia has strong inducements for private land owners to consider private land stewardship. He said that VOF has been a strong partner with VLCF and noted that a significant amount of funding has come from the Virginia Land Conservation Fund.

Mr. Lee said that since 2005 more than 175,000 acres have been preserved in the Chesapeake Bay Watershed.

Mr. Lee said that because the easements are permanent it is important that they are done correctly the first time. He said that there was a partnership between VOF, DCR and the VLCF to do it right. He said that the synergy of public and private interests was very important.

David Phemister, The Nature Conservancy

Mr. Phemister said that it was an honor to be able to address the VLCF in this regard. He said that setting the goal had been very important.

Mr. Phemister said that the Governor had a great team and that TNC was happy to play a small part in the achievement of the goal.

Mr. Phemister said that the 400,000-acre goal was straightforward and ambitious.

Mr. Phemister said that TNC works to be science oriented and results oriented. He said there is a list of benefits that they are becoming better at articulating such as how many tons of carbon were being sequestered or how many endangered or threatened species were being protected.

Mr. Phemister said that folks respond to leadership. They worked hard to achieve the goal. He said that the TNC Board took the challenge very seriously.

Mr. Phemister said that this goal had an impact, but that with shrinking budgets it was not something that would be a long-term sustainable model.

Heather Richards, Virginia's United Land Trusts

Ms. Richards said that she had two lessons that would build on the comments of Mr. Lee and Mr. Phemister.

Ms. Richards said that the first lesson was that the goal was targeted and was not just a hope for 400,000 random acres. She said that the acres preserved were scattered across the state and had more strategic impact because of that.

Ms. Richards said that private land trusts were the organizations that were making this goal work. She said that land trusts were the nexus of local, regional, state and national priorities to make sure the projects actually happen.

Ms. Richards said that there was wonderful collaboration toward the goal.

Ms. Richards said that the second lesson was that preserving another 400,000 acres would not be a problem with finding willing landowners, but capacity is the problem.

Secretary Bryant emphasized that point. He said that Governor-elect McDonnell had stated a similar goal but that capacity will be the challenge.

Nikki Rovner, Deputy Secretary of Natural Resources

Ms. Rovner said that Virginia had been fortunate to have local and national organizations to assist the state in reaching this goal.

Ms. Rovner said that another question that was wrestled with was what counts as permanent protection. She noted that DCR had developed thoughtful criteria in that regard. She also noted that the City of Richmond had a wonderful example of permanent protection with James River Park.

Ms. Rovner said that she would like to congratulate everyone involved with the goal. She said that land conservation was a wonderful rallying point for the natural resources agenda.

Ms. Rovner said that easements were the perfect balance between land conservation and private property rights. She said that every acre protected was important.

Ms. Rovner noted that the Board had been provided two CDs. One was a manual of information for Board members provided by DCR. The other was a project put together by VOF that included a screen saver showing many of the protected properties.

Secretary Bryant called for comments from Board members.

Mr. Dickinson thanked the Secretary and other members for their leadership. He said that it was not just the quantity of land, but also the quality. He said that he was from an expanding urban area and publicly accessible land is valuable and important.

Mr. Dickinson asked about the issue of permanency and gave the example of a federal highway going through a property.

Mr. Lee said that the Virginia Conservation Act was not as strong as it needed to be. He said that if land is given up there should be a mitigation replacement. He said that was a goal to work toward.

Senator Ticer said that she appreciated the work of the group and the public and private participation.

Ms. Glaize said that she appreciated the report from the panel. She thanked the members for the collaboration.

Mr. Barlow said that as a new member he appreciated the meeting. He said that he had been aware of the efforts of the Board. He said that he looked forward to the next few years with an adjusted goal.

Mr. Graham said that the accomplishment was remarkable. However, he said that as a Board member he felt under-utilized. He said that he felt the Board could meet and debate criteria and make recommendations for future preservation. He said he felt the Board members could serve as ambassadors for the message.

Ms. Richards said that she would be happy to arrange easement training for members.

Secretary Bloxom said that in addition to the capacity issue it was important to work towards identifying landowners interested in preservation.

Mr. Maroon said that it was important to recognize that it took a number of initiatives to reach the goal. He said that it could not be done with easements alone, or bonds alone. He said that it was the collective effort.

Public Comment

Phil Hocker

Mr. Hocker said that this had been a remarkable achievement that had built on a lot of ground work. He congratulated Secretary Bryant on achieving the goal. He said that he appreciated that the incoming administration had articulated the same goal.

Adjourn

There was no further business and the meeting was adjourned.

Respectfully submitted,

Douglas W. Domenech
Chairman

David A. Johnson
Executive Secretary